

**BOARD OF GAME AND INLAND FISHERIES MEETING MINUTES  
4000 WEST BROAD STREET  
RICHMOND, VIRGINIA**

**DECEMBER 14, 2005, 9:00 a.m.**

**PRESENT:** Sherry Smith Crumley, Chairman, John W. Montgomery, Jr. (left at 1:15 p.m.), Richard E. Railey, Jr., Ward Burton, Randy J. Kozuch, Charles S. Yates, Thomas A. Stroup (left at 11:50 a.m.), James W. Hazel; **ABSENT:** C. Marshall Davison, William T. Greer, Jr. and C. T. Hill (schedule conflicts); **LEGAL COUNSEL:** Roger Chaffe, **INTERIM DIRECTOR,** Colonel W. Gerald Massengill; **SENIOR STAFF:** Mike Bise, Raymond E. Davis, Bob Duncan, Gary Martel, Charlie Sledd and David Whitehurst; **DEPUTY SECRETARY OF NATURAL RESOURCES:** David K. Paylor

Chairman Crumley called the meeting to order and welcomed everyone. Ward Burton read the mission statement and Scott Naff lead the Pledge of Allegiance to the Flag.

**1. Public Comment, Non-Agenda Items:** No requests were received to speak on non-agenda items.

**2. Recognition of Employees and Others:** No recognitions were planned for this meeting.

**3. Smith Mountain Lake Boating Safety Discussion:** An opportunity was provided for representatives of the Smith Mountain Lake community to comment to the Board on their concerns regarding boating safety at the Lake. Representatives were also present from Lake Anna, Lake Gaston and Lake Chesdin.

**Ralph Brush, representing the Smith Mountain Lake Water Safety Task Force,** introduced Bob Merriman, representing the Coast Guard Auxiliary, Pete Lewis, representing the Marine and Fire Rescue Department, Bruce Dungan, President of the Smith Mountain Lake Association, John Slayden, representing Lake Gaston, Pete Deschenes also of Lake Gaston, and Herb Distefano, representing Lake Anna.

Mr. Brush indicated that Chairman Crumley and Interim Director Massengill attended and participated in a December 6, 2005 public meeting that was held to address boating safety concerns at Smith Mountain Lake. He shared a concern for the number of boat accidents on the Lake that were attributed to the heavy boating traffic and the Lake's growth. He also provided each Board member with a copy of the Summary Report that was a handout at the December 6 meeting. The report was prepared by the Smith Mountain Lake Water Safety Task Force.

Because of the number of boating related accidents at the Lake, Mr. Brush and the Task Force asked the Board for its support of both regulatory and legislative initiatives underway to address safety issues, which included an increased law enforcement presence on the lake, mandated boating education phased in over a number of years, and quantitative limits on speed and noise

on the Lake and inland lakes. He requested the Board and the Department to continue to work on a successful resolution to the speed and noise issues, and to lend support to any legislation that may be introduced to address the concerns. He added that efforts would be made to meet the needs of fishing tournaments.

**Bruce Dungan, President, Smith Mountain Lake Association,** indicated that the Smith Mountain Lake Water Safety Task Force was formed to respond to the needs of the Lake community. He indicated also that a majority of the Lake residents support the recommendations developed by the Task Force.

He indicated that the Smith Mountain Lake Association is working with the Task Force and agreed with the recommendation that an increased law enforcement presence is needed on the Lake (10 additional game wardens). They also support changing boat markings to heighten awareness of a game warden's presence, requiring mandatory boater education, relocating the Forest Regional Office to Franklin County, and full restoration of the revenue generated by the watercraft sales and use tax to the Department of Game and Inland Fisheries.

Mr. Dungan also stated that speed is an issue on the Lake. He added that Task Force and Association members have established a dialogue with Department staff. He noted that 66% of the Association members list speed as one of the major safety problems on Smith Mountain Lake. He recognized also that it will require a significant amount of time to obtain all of their desired goals.

An opportunity was provided for Board members to discuss the issue and question Mr. Dungan and Mr. Brush. Board members asked and were told that in order of priority, the need for an increased game warden presence was the most important requested action, followed by more local law enforcement, education, addressing the speed and noise issues, and requiring the use of PFD's by people using tubes.

**PETE DESCHENES, representing Lake Gaston,** stated support for mandatory boater education, increased law enforcement patrols, and concerns with speed and noise.

**HERB DISOTEFANO, VICE PRESIDENT OF THE LAKE ANNA CIVIC ASSOCIATION,** indicated that the Lake Anna Board of Directors has aligned with the proposed approach.

Colonel Massengill stated for the record that with increased boating pressure, the Department realizes that an increased law enforcement presence is needed, but he added that funding will be required to address the need. He noted that speed is a safety-related concern. Speed limits and the enforceability of speed are concerns for the Department. With the absence of data to support what an acceptable speed is, he felt that the Department is not in a position to defend what would constitute a safe speed limit. However, he did pledge the Department's support to continue to work with the Task Force and the Association on the identified needs.

Chairman Crumley thanked the speakers for attending the meeting. She pledged support for a continuing dialogue with the group.

**To respond to concerns raised, and to comply with Code requirements, Ms. Crumley appointed Jimmy Hazel, William T. Greer and Ward Burton to the Wildlife and Boating Committee.**

**4. Minutes of the November 29, 2005 Meeting.** The minutes of the November 29 meeting were distributed with briefing materials and were posted on the Department's Web site. Chairman Crumley called for any corrections or additions to the minutes. Mr. Railey asked that the minutes be corrected to reflect his attendance. As there were no other corrections requested, **Mr. Hazel moved, seconded by Mr. Yates, passed unanimously in a show of hands vote that the minutes be amended as requested, and approved. (Ayes: Hazel, Yates, Railey, Burton, Montgomery, Crumley, Kozuch, and Stroup)**

**5. Committee Reports: Audit Committee:** Mr. Montgomery reported that the Audit Committee did not have an opportunity to meet because the Board meeting was rescheduled, and financial reports have not been issued.

**Search Committee:** Mr. Montgomery reported that the Search Committee continues to work with the Transition Team, and a new schedule will be developed regarding the search for an agency director. He also noted that Search Committee members have completed a review of the applications for the position.

**Governance Committee:** Mr. Hazel presented the revised Governance Manual for the Board's review and discussion. He was assisted by David Whitehurst.

Mr. Hazel noted that the proposed manual has been edited to reflect an enhanced working relationship between the Board and the Secretary of Natural Resources and the appropriate manner to handle ex parte contacts to Board members.

Chairman Crumley recognized Deputy Secretary of Natural Resources David K. Paylor and he stated that he felt the Governance Manual is a good document. He congratulated the Board for the overall quality of the work that it has accomplished over the last few months, noting that the Board has refocused over the last few months and the Governance Manual is a significant step forward in defining the roles of each Board member and sets forth clear expectations.

**Mr. Stroup moved on behalf of the Governance Committee, seconded by Mr. Burton, passed unanimously in a show of hands vote, that the Board adopt the Governance Manual as presented and amended during Board discussion. (Ayes: Stroup, Burton, Montgomery, Railey, Crumley, Kozuch, Yates, and Hazel)**

The Board then reviewed the proposed Board of Directors Code of Ethics and Conduct document.

**Mr. Montgomery moved, seconded by Mr. Yates, passed unanimously in a show of hands vote, that the Board adopt the Code of Ethics and Conduct document as presented and**

**amended during Board discussion. (Ayes: Montgomery, Yates, Railey, Burton, Crumley, Kozuch, Stroup, and Hazel)**

Chairman Crumley requested staff to have a copy of the affirmation statement available at the January 17 meeting for all Board members to sign pledging that they will honor and follow the Board's approved Code of Ethics and Conduct.

Mr. Hazel stated that since the Governance Committee has completed its mission, he felt that the committee should only serve in an ad hoc capacity until further work is needed.

**Policy Committee:** Mr. Yates reported that the Policy Committee met just prior to today's scheduled Board meeting and conducted a review of amended Board policies. Policies are being developed in five areas. Copies of the draft policies were distributed in the meeting briefing materials.

David Whitehurst was requested to review the proposed policies. Policies developed were titled, Acquisition of Lands, Waters and Structures, Constituency and Communications, Ethical Behavior and Practices, Mission Focus to Staff Activities, Open Government, and Use of Scientific Principles and Procedures in Natural Resource Management.

Board members discussed the proposed policies and recommended several amendments.

**On behalf of the Policy Committee, Mr. Yates, moved, seconded by Mr. Railey, passed unanimously in a show of hands vote that the Committee recommend that the Board adopt the general policies as presented and amended during Board discussion. Ayes: Yates, Railey, Montgomery, Burton, Crumley, Kozuch, Stroup, and Hazel.**

**On behalf of the Policy Committee, Mr. Yates moved, seconded by Mr. Railey, passed unanimously in a show of hands vote, that the Board rescind previous Board policies that are no longer applicable. (Group A: Administration, number A-2-90, Voting by Board Chairman, A-3-90, License Agent Appointment and Removal, A-4-93, Role and Responsibilities of the Board of Game and Inland Fisheries, A-6-95, Real Estate Authorizations and Documents, and Group D: Law Enforcement, number D-1-90, Game Wardens, Primary Duties. (Ayes: Yates, Railey, Montgomery, Burton, Crumley, Kozuch, Stroup and Hazel)**

Mr. Yates noted for the record that the Policy Committee has identified four additional areas where policies are needed. The Committee plans to continue to work to develop the needed policies.

As required by Board Policy A-1-90, the following is the full text of these approved Board policies.

**Title:** Acquisition of Lands, Waters, and Structures

**Area of Concern:** General Policies

**Authority:** Code of Virginia §29.1-103, 2.2-3705.1, 2., 5., 8., and 12., and §2.2-3711.A.3, and 6.

**Version:** 12152005  
**Adoption Date:** December 14, 2005  
**Effective Date:** December 14, 2005  
**Review Date:**  
**Revision Date:**

**Statement of Purpose:** The Code of Virginia charges the Board with the responsibility to acquire by purchase, lease, exchange, gift or otherwise, lands and waters in the Commonwealth for game and fish refuges, preserves or public shooting and fishing, public landings, wharves, or docks; to improve such lands and structures; and to confer upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out these purposes.

**Policy:** It is the policy of the Board of Game and Inland Fisheries that all acquisitions be compatible with the mission of the Department. The Board further requires that such acquisitions shall be carried out by the Director according to all applicable law, regulations, policies and procedures. The Director shall establish guidelines and procedures to implement this policy.

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**Title:** Constituency and Communications

**Area of Concern:** General Policies

**Authority:** Code of Virginia: §29.1-103; §29.1-109

**Version:** 12152005  
**Adoption Date:** December 14, 2005  
**Effective Date:** December 14, 2005  
**Review Date:**  
**Revision Date:**

**Statement of Purpose:** The intent of the policy is to clarify the constituency to which the agency will provide the primary mission-focused delivery of services.

**Policy:** It is the policy of the Board that the Department shall provide mission-related services to the public. Any member of the public

requesting mission-related services or information will be considered a constituent of the Department.

The Department will develop programs and services to provide opportunities for the public to pursue its legitimate interest in the recreational enjoyment of the fish, boating and wildlife resources of the Commonwealth; to inform the public on the importance of healthy, viable wildlife resources; and to educate the public on the safe and ethical methods of enjoying the wildlife and boating resources.

Communication and service delivery to the public will consider the diverse ethnic and cultural backgrounds that exist in the public. Reasonable effort will be made to assure that communications, programs and services are tailored, whenever possible, to be relevant to the public.

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<b>Title:</b>	Ethical Behavior and Practices
<b>Area of Concern:</b>	General Policies
<b>Authority:</b>	Code of Virginia §29.1-103, §29.1-109
<b>Version:</b>	12152005
<b>Adoption Date:</b>	December 14, 2005
<b>Effective Date:</b>	December 14, 2005
<b>Review Date:</b>	
<b>Revision Date</b>	
<b>Statement of Purpose:</b>	The purpose of this policy is to describe the boundaries of prudent, ethical behavior within which the Department shall operate.
<b>Policy:</b>	<p>It is the policy of the Board of Game and Inland Fisheries that Department staff shall not cause or allow any practice, activity, decision, or organizational circumstances that are either imprudent or in violation of state or federal laws.</p> <p>Department staff shall maintain the highest ethical standards and conduct to ensure the Department's credibility and the accomplishment of its mission.</p> <p>Department staff shall use state resources to host, sponsor, or participate at events or activities that are mission relevant.</p>

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**Title:** Open Government

**Area of Concern:** General Policies

**Authority:** Code of Virginia §2.2-3100 - §2.2-3131, §2.2-3700 - §2.2-3714, §2.2-3800 - §2.2-3809, §29.1-103, and §29.1-109

**Version:** 12152005

**Adoption Date:** December 14, 2005

**Effective Date:** December 14, 2005

**Review Date:**

**Revision Date:**

**Statement of Purpose:** The purpose of this policy is to ensure that the Department adheres to the values of open government and provide opportunities to have fair and frank exchanges of ideas between agency staff and the public.

**Policy:** It is the policy of the Board of Game and Inland Fisheries that the Department shall operate in full compliance with the provisions of the Virginia Freedom of Information Act, Government Data Collection and Dissemination Practices Act, and the State and Local Government Conflict of Interests Act in regards to public records owned by, prepared by, or in the possession of the Department.

The Department shall maintain open communications with the public, the Department's constituent groups and partners in wildlife conservation and boating, and the news media.

The Department will disseminate information, as appropriate, to the public through proper channels in an expeditious manner and will, when justified, protect the confidentiality of its transactions on the public's behalf.

Staff may communicate with Board members on topics that are directly related to the Department's mission. The Board encourages employees to work with agency management to address issues related to the Department's operations or policies.

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**Title:** Use of Scientific Principles and Procedures in Natural Resource Management

**Area of Concern:** General Policies

**Authority:** Code of Virginia §§29.1-103 and 29.1-109.A

**Version:** 12152005

**Adoption Date:** December 14, 2005

**Effective Date:** December 14, 2005

**Review Date:**

**Revision Date:**

**Statement of Purpose:** The Department of Game and Inland Fisheries is required by the Code of Virginia to employ scientific principles and procedures in the management of the Commonwealth's wildlife and natural resources. Additionally, in its Governance Manual, the Board of Game and Inland Fisheries has committed to deliberations and decisions that are based on sound scientific principles and procedures, as developed, researched, recognized, and accepted within the bounds of comprehensive professional wildlife resource management. The purpose of this policy is to affirm the Board's support for such an approach in all activities related to the management of wildlife populations and habitats, including the development, implementation, and enforcement of regulations intended to protect these resources.

**Policy:** It is the policy of the Board of Game and Inland Fisheries that the Department employs scientific principles and procedures, as developed, researched, recognized and accepted within the bounds of comprehensive professional wildlife resource management, in the management of the Commonwealth's wildlife and habitat resources. The recommendation, development and enforcement of Department policies, rules and regulations shall be based on commonly accepted scientific principles with regards to the daily operations of the Department staff.

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**Title:** Mission Focus to Staff Activities

**Area of Concern:** General Policies

**Authority:** Code of Virginia: §29.1-103

**Version:** 12152005



**Adoption Date:** December 14, 2005  
**Effective Date:** December 14, 2005  
**Review Date:**  
**Revision Date**

**Statement of Purpose:** The purpose of this policy is to focus Department activities on mission-specific tasks.

**Policy:** It is the policy of the Board of Game and Inland Fisheries that staff will engage primarily in mission-specific tasks except for necessary activities that address issues of public safety or when expenses are fully reimbursed to the Department.

Chairman Crumley called for a break at 10:30 a.m. and the meeting reconvened at 10:45 a.m.

**6. Financial Report:** Using PowerPoint, Ray Davis presented an overview of the Department's funds. He noted that the Game Protection Fund is created by statute and it is Department's main operating fund. The funds are to be spent for wildlife, fisheries management, law enforcement and operations. It is composed of revenue generated from license sales, the watercraft sales and use tax, House Bill 38 funds and revenue generated from the Virginia Wildlife magazine, calendars and the agency's retail store.

The Boat Fund is composed of boat registration and titling fees.

The Nongame/Wildlife Diversity Fund was initially funded from a state income tax refund check-off donation. It also receives private donations and honorariums.

The Lifetime License Fund is derived from lifetime license fees. Approximately \$4.1 million is in the Lifetime License Fund, which includes earned interest.

Other Funds consist of the migratory conservation waterfowl stamp fund, capital improvements, fish passage, parking fund, recyclable materials, surplus property, and insurance recovery.

The Department also receives federal grants which include Pittman-Robertson, Dingel-Johnson/Wallop Breaux, State Wildlife Grants, Wildlife Conservation Resource Planning, Coast Guard, Landowner Incentive Program, Section 6 (threatened and endangered species), and miscellaneous specific grants. Federal funds are received on a reimbursement basis. State funds are used to fund a project and then the Agency is reimbursed for incurred costs (Pittman Robertson and Dingel-Johnson). Mr. Davis noted that agencies must always remain mindful of any activity that could create a reversion or diversion factor concerning federal funds.

**7. Chairman's Remarks:** Chairman Crumley did not have any additional topics to introduce for discussion.

**8. Director's Report:** Colonel Massengill introduced James Adams. Mr. Adams reported that the Department holds an easement on a track of land known as the Goodall Property that is located in Highland County, Virginia. This easement is the result of a court action and it is held for a number of purposes. The Goodall family has expressed an interest in changing the management focus for the property and their legal counsel and family representative presented an overview of their concerns to the Board. Attending the meeting were Chez Goodall, Neil Kessler, legal counsel to the family, and Brad Kreps a field representative for The Nature Conservancy. A handout was provided to each Board member on the property and its location.

**Chez Goodall, Richmond, Virginia** stated that the family is seeking a transfer of the deed and easement for the property from the Department of Game and Inland Fisheries to the Department of Forestry through The Nature Conservancy. He felt that the property is not being managed as his father desired and the requested transfer would meet the family's expectations for the property. The family envisions a portion of the farm being managed as a working forest and preserving certain aspects of the property and its habitat. They also want to lease the property to a private hunt club rather than having Department staff issue day hunting permits to the property.

**Neil Kessler, representing the Goodall Family,** presented an overview of the issue. He outlined that the first needed action is to have the property and the easement rights conveyed by the Department of Game and Inland Fisheries to the Department of Forestry. A deed of gift recorded in 1984 for .98 acres is being reviewed by legal counsel and Department staff. Mr. Kessler also noted for the record that Rifle Ridge is another name for the Goodall Property.

Board members discussed the topic with Mr. Goodall and his legal counsel. Additionally, the Department's legal counsel suggested the issue needed to be reviewed by the Attorney General to insure the transaction is in the public's interest. It will also require the approval of this Board.

**Mr. Railey moved tabling any action until the January 17, 2006 meeting, seconded by Mr. Stroup, passed unanimously in a show of hands vote. (Ayes: Railey, Stroup, Montgomery, Burton, Crumley, Kozuch, Yates, and Hazel)**

Mr. Montgomery requested staff to provide the Board with a full briefing on the topic and how the public will benefit from the transfer of the easement.

Using PowerPoint, Colonel Massengill presented a summary on actions the Board and the Department have taken to address issues identified in the May 23, 2005 Internal Auditor's report. Policies have been developed to provide guidance on purchasing, uniforms, compliance reviews, assets management, appropriate cell phone use, equipment testing, and personnel actions. Anti-retaliation policies have been enacted by the Board and the Department, and policies have been developed for media services and conference travel.

A policy has been developed to control uniform clothing for employees. An inventory and control policy has been developed and assets will be managed through the new Asset Management System. Any tangible property that has a value greater than or equal to \$500 and less than \$5,000 will be a controllable asset. Items that have an expected useful life of greater than

one year and have a value or cost of \$5,000 or more at the acquisition data are capital assets. Each Board member received a copy of the Department's Assets Management System manual.

The Department has completed its review of cell phone use, and a guidance policy has been developed. Phone charges are also being reviewed to insure that calls are appropriate and business related. When an emergency occurs, the policy also allows employees to reimburse the Department for any necessary calls.

A process has been developed for the field testing of equipment and a guidance policy has been developed to insure appropriate documentation.

Tremendous strides have been realized in the development of needed personnel policies which have been posted on the Agency's intranet. A comprehensive media services policy has been developed and implemented.

A conference attendance policy has been written and will be sent to the Office of the Secretary of Natural Resources for approval. This policy is based on the State travel policy.

An internal auditing function has been evaluated and financial controls have been enhanced. Approval processes have also been implemented for purchases along with measures to insure compliance.

Colonel Massengill indicated that employees are receiving training on the new policies. The effective date for the policies is January 1, 2006.

The Board asked the Director to keep it informed on the status of the inventory of Department-owned firearms.

**Mr. Montgomery moved, seconded by Mr. Railey, passed unanimously in a show of hands vote to approve the Department's media services and asset management policies as presented. (Ayes: Montgomery, Railey, Burton, Crumley, Kozuch, Yates, and Hazel)**

Colonel Massengill reported that he has been working on an appropriate ratio for employees and supervisors, especially within the Law Enforcement Division. Consideration is being given to reorganizing the Law Enforcement Division and realigning ranking positions to be more compatible with other law enforcement units.

Interviews for the Law Enforcement Division Colonel were conducted on December 13, 2005 and an announcement will be made soon.

**At 12:35 p.m., Mr. Railey moved, seconded by Mr. Hazel, passed unanimously in a show of hands vote that the Board go into a closed meeting pursuant to § 2.2-3711.A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for a public purpose or of the disposition of publicly held real property with respect to a status report on previously approved property acquisitions in the City of Chesapeake, the County of Wise, and the County of Louisa, a status report on possible property acquisitions in**

**Northern Virginia and Southwest Virginia, and a discussion on possible partnerships for other property matters, and further, pursuant to § 2.2-3711.A.1 of the Code of Virginia for discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Department of Game and Inland Fisheries specifically regarding the performance of the interim director.**

**In open session at 1:45 p.m., Mr. Railey certified, seconded by Mr. Yates, passed unanimously in a show of hands vote, that whereas the Board of Game and Inland Fisheries had convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act, and whereas § 2.2-3712.D of the Code requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; now, therefore, be it resolved that the Board of Game and Inland Fisheries hereby certifies that (i) to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. (Ayes: Railey, Yates, Burton, Crumley, Kozuch, and Hazel)**

**Mr. Hazel moved, seconded by Mr. Burton, passed unanimously in a show of hands vote, that the Board authorize the Director to proceed to acquire approximately 631 plus/minus acres under a conservation easement and the subsequent acquisition by gift of approximately 550 plus/minus of those acres of land in Madison County and such acquisitions shall be according to applicable state procedures. (Ayes: Hazel, Burton, Railey, Crumley, Kozuch, and Yates)**

Ms. Crumley announced that the next meeting of the Board will be January 17, 2006, beginning at 9:00 a.m.

As there was no further business, the meeting was adjourned at 1:50 p.m.

Respectfully submitted,

Belle Harding  
Board Secretary